



Ninety-Eighth Legislature - Second Session - 2004
Introducer's Statement of Intent
LB 1085

Chairperson: Kermit A. Brashear
Committee: Judiciary
Date of Hearing: February 25, 2004

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

The Nebraska Supreme Court's ruling and analysis in **State v. Bronson**, 267 Neb 103 (2003) suggest the need to simplify and clarify the law relative to DNA evidence and its use. This bill makes eight (8) changes:

1. Simplifies the process by restricting a person seeking a new trial based on DNA evidence, to 29-4123 of the DNA Testing Act, rather than permitting resort to 29-2101 et seq., also .
2. Permits a motion for a new trial based on newly discovered evidence to be filed within 90 days of discovery – supplanting the absolute bar of three years after the verdict. This provides recourse (currently unavailable) if evidence establishing innocence or casting serious doubt on the validity of the conviction, is discovered more than three years after the guilty verdict. **[page 3:16-19]**
3. Amends the Intent section of the DNA Testing Act to address unreliable convictions as well as actual innocence. **[page 4: 4-7]**
4. Amends the definition section of the DNA Testing Act relative to the terms “innocence/innocent,” “exonerate,” and elaborates on “exculpatory” to provide meaningful guidance to the courts. **[page 4: 11-12]**
5. Requires that a court shall vacate a conviction and order the release of a person if there is “clear and convincing” evidence of innocence based on DNA evidence. (Currently, district courts may grant a new trial, direct a verdict and order dismissal of charges.) **[page 5: 7-11]**
6. Requires that a court shall order a new trial if “clear and convincing” exculpatory evidence undermines the reliability and accuracy of the original trial. **[page 5:12-18]**
7. Establishes that the DNA Testing Act is the sole method of seeking either release or a new trial based on new DNA test results. **[page 3:24-27 and 5: 24-26]**
8. Specifies that denial of relief under the DNA Testing Act is a “final order” which must be appealed within 30 days. **[page 5: 21-23]**

Principal Introducer: _____

Senator Ernie Chambers

